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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,470	05/17/2007	Barrie Dudley Brewster	M04B107	8791
71134	7590	11/04/2011		
Edwards Vacuum, Inc. 2041 MISSION COLLEGE BOULEVARD SUITE 260 SANTA CLARA, CA 95054				
EXAMINER				
BURCH, MELODY M				
ART UNIT		PAPER NUMBER		
3657				
NOTIFICATION DATE		DELIVERY MODE		
11/04/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LORETTA.SANDOVAL@EDWARDSVACUUM.COM

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/588,470

**Applicant(s)**

BREWSTER, BARRIE DUDLEY

**Examiner**

MELODY BURCH

**Art Unit**

3657

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 October 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
 NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: 28-30

Claim(s) rejected: 1-5, 7, 8, 10-27, 29 and 32-38

Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_

11/1/11

/Melody M. Burch/  
Primary Examiner, Art Unit 3657

Continuation of 5. Applicant's reply has overcome the following rejection(s): Applicant's amendment overcomes the 112 2nd paragraph rejections set forth in paragraph 2 of the final Office action.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments regarding the 103 rejections are not persuasive. First, it is noted that Examiner has entered the amendments because they overcome the 112 second rejections and place the case in better form for appeal. Therefore, the 112 second rejections would be withdrawn. With respect to the 103 rejections, Applicant argues that APA teaches away from precompressing the bellows arrangement since support 5 is described as typically experiencing failure in a buckling mode. Examiner notes that APA describes on pg. 1 of the instant specification the support 5 as being provided to "prevent the bellows 4 [sic] collapsing under compression." Examiner maintains that APA itself acknowledges the compression limiting function of support 5. In order to achieve its described compression limiting function the support 5 must bear a compressive force and undergo some level of compression. The combination merely results in the level of compression occurring in advance. Therefore, while APA may not teach the pre-compression limitation (which is the reason why APA is not a 102 reference), it does not teach away from compressing (which includes pre-compressing) the damper arrangement as Applicant argues. The fact that support 5 is susceptible to failure in buckling mode does not change the fact that APA's support 5 is a compression limiting device that undergoes compression to help prevent the bellows from collapsing under compressive loads. Ramos is used solely for its teaching of a damper arrangement being pre-compressed by the means for limiting axial extension. The combination results in the APA damper being precompressed by the means for limiting axial extension. Such pre-compression would allow a certain desired level of damping to be achieved once in an installed position during use. This motivation is taught by Ramos which explicitly teaches pre-compression in col. 2 lines 2-9 and describes the arrangement as being used for resiliently resisting movement during use as taught in col. 1 lines 29-33. The fact that a particular level of damping may be achieved by other means does not preclude the use of the means presented by the instant combination as Applicant's argument suggests on pg. 11 of the remarks. Accordingly, the rejections have been maintained.